

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed February 14, 2005. At the time of the Office Action, Claims 1-50 were pending in this Application. Claims 1-50 were rejected. Claims 1-41, 49 and 50 have been cancelled without prejudice or disclaimer. Claim 42 has been amended to further define various features of Applicant's invention. New Claims 51-75 have been added. Applicant respectfully requests reconsideration and favorable action in this case.

Rejections under 35 U.S.C. § 112

Claim 49 was rejected by the Examiner under 35 U.S.C. §112, second paragraph, as being indefinite and failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claim 49 has been cancelled without prejudice or disclaimer.

Double Patenting Rejection

The Examiner provisionally rejected Claims 1-50 based on the judicially created double patenting doctrine over the Claims of related U.S. Patent No. 6,457,038 issued to Erin Defosse ("Defosse 038") stating that although the conflicting Claims are not identical, they are not patentably distinct from each other. A Terminal Disclaimer with respect to U.S. Patent 6,457,038 is attached.

Rejections under 35 U.S.C. §103

Claims 1-4, 7-10, 15-21, 25-34 and 41-46 were rejected under 35 U.S.C. §103(a) as being unpatentable over European Patent No. 0602787A2 issued to Lorraine F. Barrett ("Barrett") in view of U.S. Patent No. 5,815,652 issued to Ichiro Ote et al. ("Ote et al."). Applicant respectfully traverses and submits the cited art combinations, even if proper, which Applicant does not concede, does not render the claimed embodiment of the invention obvious.

Claims 1-4, 7-10, 15-21, 25-34 and 41-46 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,930,771 issued to Dennis S. Stapp ("Stapp") in

view of U.S. Patent No. 5,949,779 issued to Mohamed Mostafa et al. ("Mostafa et al."). Applicant respectfully traverses and submits the cited art combinations, even if proper, which Applicant does not concede, does not render the claimed embodiment of the invention obvious.

Claims 1-4, 7-10, 15-21, 25-34 and 41-46 were rejected under 35 U.S.C. §103(a) as being unpatentable over Stapp in view of U.S. Patent No. 5,805,997 issued to Robert D. Farris ("Farris"). Applicant respectfully traverses and submits the cited art combinations, even if proper, which Applicant does not concede, does not render the claimed embodiment of the invention obvious.

Claims 1-50 were rejected under 35 U.S.C. §103(a) as being unpatentable over International Publication No. WO 95/04333 by Paola Frau et al. ("Frau et al.") in view of U.S. Patent No. 4,412,292 issued to Jason K. Sedam et al. ("Sedam et al."). Applicant respectfully traverses and submits the cited art combinations, even if proper, which Applicant does not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Furthermore, according to § 2143 of the Manual of Patent Examining Procedure, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Claims 1-41 have been cancelled without prejudice or disclaimer. Claim 42 has been amended to include various features of Applicant's invention as related to **"beverage dispensing equipment"** which are neither shown or taught in the references cited by the Examiner to reject Claim 42.. Applicant requests withdrawal of all rejections and allowance of Claim 42 as amended.

Claims 43-48 are dependent directly or indirectly from amended Claim 42. Since Claim 42 as amended is now deemed allowable, Claims 43-48 are allowable.

Information Disclosure Statement

Applicant encloses an Information Disclosure Statement and PTO Form 1449, with a copy of the references, for the Examiner's review and consideration along with a check in the amount of \$180.00 for the filing fee.

Applicant would like to bring to the Examiner's attention that Applicant filed an Information Disclosure Statement on June 9, 2003. Applicant respectfully requests that the Information Disclosure Statements be considered and cited in the examination of the above-referenced application. Applicant attaches a copy of the Information Disclosure Statement and PTO Form 1449 filed June 9, 2003, for the Examiner's convenience and a copy of the postcard receipt evidencing receipt by the Patent Office.

Change of Correspondence Address

Applicant respectfully requests that all papers pertaining to the above-captioned patent application be directed to **Customer No. 31625** and all telephone calls should be directed to Thomas R. Felger at 512.322.2599. A Change of Correspondence Address is enclosed for filing

Petition for Extension of Time

Applicant respectfully submits herewith a Petition for Three-Month Extension of Time Request, along with a check in the amount of \$1,020.00 for the required filing fee.

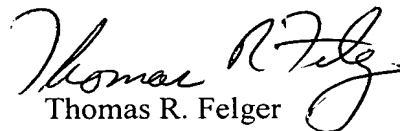
CONCLUSION

Applicant has now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicant respectfully requests reconsideration of Claims 42-49 and 51-75 as amended.

Applicant's enclose a check in the amount of \$1,020.00 for the Request for Extension of Time and a check in the amount of \$180.00 for the Information Disclosure Statement. Applicants believe there are no additional fees due, however, the Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicant's attorney at 512.322.2606.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorney for Applicant


Thomas R. Felger
Reg. No. 28,842

SEND CORRESPONDENCE TO:

BAKER BOTTS L.L.P.

CUSTOMER ACCOUNT NO. **31625**

512.322.2599

512.322.8305 (fax)

Date: 20 JULY 2005

- Enclosures:
1. Petition for Extension of Time and check for \$1,020.00 for filing fee
 2. Terminal Disclaimer to Obviate a Double Patenting Rejection
 3. Statement Under 37 CFR 3.73 (b)
 4. Change of Correspondence Address
 5. Information Disclosure Statement and PTO-1449 Form with check for \$180.00 filing fee
 6. Copy of the Information Disclosure Statement and PTO Form 1449 filed June 9, 2003 and a copy of the postcard receipt

The "Received" stamp of the Patent and Trademark Office imprinted hereon acknowledges the filing of:

Application - Spec., Claims, Abstract (___ Page(s))

☐ CIP

☐ Conv. Prov.

☐ Div.

☐ Cont.

☐ Provisional

☐ Informal/Formal Drawing(s) (___ Page(s))

Declaration(s)/Power(s) of Attorney (___ Page(s))

☐ Executed

☐ Unexecuted

☐ Assignment w/Cover Sheet (___ Page(s))

☒ IDS and PTO-1449 (3 Pages)

☒ w/Refs.

☐ w/o Refs.

☐ Non-Publication Request (___ Page(s))

☐ Verified Statement (___ Page(s))

☐ ___ Mo. Extension of Time (___ Page(s))

☐ Amendment/Response (___ Page(s))

☐ Issue Fee Transmittal (___ Page(s))

☐ Check No. ___ Amt.: \$

☐ Check No. ___ Amt.: \$

☐ Other:

Inventor: **Defossé**

Serial No.: **09/923,046**

Title: **S&M for Monitoring and Control of Beverage Dispensing Equipment**

Client/Applicant: **Isochron**

BB File No.: **064814:0150**

Mailed: **6/9/03**

Due:

Atty./Secy.: **MRB/kmb**

Certificate of Mailing

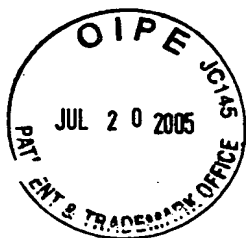
☒ Express Mail Rcpt. No.: **EV341127208US**

☐ First Class Mail

☐ Hand Delivered

Receipt Date & Serial No.:





IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Erin M. Defossé
Serial No.: 09/923,046
Filing Date: August 6, 2001
Examiner: Unknown
Group Art Unit: 2153
Title: *System and Method for Monitoring and Control of Beverage Dispensing Equipment*

Honorable Assistant Commissioner
of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail No. EV341127208US addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Shannon Judice
Shannon Judice
6/9/03
Date

EV341127208US

Dear Sir:

INFORMATION DISCLOSURE STATEMENT

Applicant respectfully requests, pursuant to 37 C.F.R. §§ 1.56, 1.97 and 1.98, that the reference listed on the attached PTO-1449 form, be considered and cited in the examination of the above-identified patent application. A copy of the reference is enclosed for the Examiner's convenience. Furthermore, pursuant to 37 C.F.R. §§1.97(g) and (h), no representation is made that this reference is material to the patentability of the present application.

Applicant believes no fees are due; however, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 50-2148 of Baker Botts L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicant



Michael R. Barré
Reg. No. 44,023

Date: 6/9/03

Correspondence Address:

Customer No. 31625



31625

PATENT TRADEMARK OFFICE

512.322.2573

512.322.8381 (Fax)

PTO-1449 <div style="text-align: center;"> Information Disclosure Citation in an Application </div>		Application No. 09/923,046 Docket Number 064814.0150		Applicant(s) Erin M. Defossé <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">Group Art Unit 2153</td> <td style="width: 33%;">Filing Date 08/06/01</td> </tr> </table>		Group Art Unit 2153	Filing Date 08/06/01
Group Art Unit 2153	Filing Date 08/06/01						

U.S. PATENT DOCUMENTS

A.	B.	C.	D.	E.	F.	G.	H.	I.	DOCUMENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE

FOREIGN PATENT DOCUMENTS

J.	K.	L.	M.	DOCUMENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
									YES	NO

NON-PATENT DOCUMENTS

N.	O.	P.	Q.	R.	S.	DOCUMENT (Including Author, Title, Source, and Pertinent Pages)	DATE
						International Preliminary Examination Report PCT/US01/31381	Mailed 5/12/03

EXAMINER	DATE CONSIDERED
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EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP § 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.